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March 3, 1955
Letter Opinion
No. 55-41

The Honorable Ruskin Lines
County Attorney
Graham County
Safford, Arizona

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ARIZONA ATTORNEY GENERAL

My dear Mr. Lines:

For the purpose of the following conclusions, the primary question posed by your letter of February 15, 1955, shall be regarded as follows:

Under the provisions and authority of Section 54-416, may a common school district and high school district combined employ a superintendent of the public schools system, a principal of the high school and a principal of the grammar school for a term of four years each?

Subsection 3 of the Code provision cited contains the following language:

"The employment of superintendents of schools or principals may be for any term not exceeding four years."

You will note the plural is used in the terminology employed above.

Since the language used in the statute apparently specifically affirms the question framed above, I am assuming there is a subsidiary question as to the power to employ the number of officials, that is to say, a superintendent and two principals in the system at Safford. In another portion of the same statute, but in the same subsection, the language:

"Boards of trustees of districts having an average daily attendance of three hundred (300) or more may employ a certificated superintendent or principal; two or more

districts having average daily attendance of three hundred (300) or more may jointly employ a superintendent or principal whose salary shall be prorated among the districts employing him in accordance with the number of children enrolled in each district, and reasonable travel expenses may be paid to such superintendent or principal when traveling on school business upon order of a majority of the board."

You will note the language employed in the above quoted section uses the disjunctive "or" and wherever specific reference is made, it is to the singular; as for example, "to such superintendent", "employing him", and the like. It is easily readable from Section 54-416 that the school trustees were regarded to anticipate yearly contracts with teachers, principals, janitors, attendance officers and the like, and the conclusion is drawn from this language:

"... enter into contracts with teachers, principals, attendance officers, school physicians, school dentists, nurses, and other employees necessary for the succeeding year, and fix their salary." (Emphasis supplied).

A specific exception was made by the provision following in the same subsection allowing the employment of superintendents of schools or principals to be for a term not exceeding four years. If it is given, then, as a fact, that the employees you refer to have been otherwise qualified by the supporting figures prescribed by the average daily attendance, there should be only the maximum limitation of four years as a restriction on their contracts. Section 54-907 of the Arizona Code of 1939, granted to the board of trustees of a high school all the powers and duties vested in school trustees for a common school. Section 54-905 codifying Chapter 117 of the Laws of 1954 prescribes that the Board of Education of a high school district shall be composed of the school trustees of the district.

In view of the recognition of the legislature of joint school districts and union school district, as is apparent from 54-416 and 54-905, and other sections of the school

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code, which make no practical limit on the size of school plants and the number of children attending in a given district, it seems only logical to apply the general rule of statutory construction contained in Section 1-103, Subsection 3, A.C.A. 1939:

"The singular number includes the plural."

to allow for the employment of this number of officials whenever, in the discretion of the board, it is deemed necessary. When this allowance is made, the maximum of four-year tenure in the contract follows.

It has been suggested, the provision of Section 54-416 in the 1954 Supplement, Subsection 3, referring to "Boards of Trustees of Districts having an average daily attendance of three hundred or more may employ a certificated superintendent or principal" contemplates one officer serving in both functions, and that, therefore, only a principal hired also as a superintendent would be entitled to the maximum, four-year tenure. It is believed that the hiring of principals and teachers was intended to be a yearly project, and this conclusion is likewise expressed above.

We do not, however, feel that this intent was accurately expressed in the language of the statute, and that, therefore, in the absence of ambiguity, the clear expression that superintendents and principals could be hired for four year terms should be followed.

In conclusion, it might be summarized that the Safford School Districts, both common and high school, may employ a principal with the maximum tenure of the principal's contract to be for four years. They may also employ a superintendent of schools with a contract providing for a maximum, four-year tenure.

Yours very truly,

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The Attorney General

By:

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